

## Message Text

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PAGE 01 NEW DE 10052 081315Z

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E.O. 11652: N/A

TAGS: ETRD, IN

SUBJECT: INDIAN MINERAL LEASING LAWS

REF: STATE 158598

1. INDIAN MINERAL LEASING LAWS ARE CONTAINED IN THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT, 1957 MODIFIED AS OF FEBRUARY 1, 1973. THE SAID ACT INCLUDES ALL MINERALS EXCEPT MINERAL OILS WHICH ARE DEFINED AS NATURAL GAS AND PETROLEUM. SECTION 5(2) OF THIS ACT ALSO STATES THAT "EXCEPT WITH THE PREVIOUS APPROVAL OF THE CENTRAL GOVERNMENT, NO PROSPECTING LICENSE OR MINING LEASE SHALL BE GRANTED TO ANY PERSON WHO IS NOT AN INDIAN NATIONAL."

AN INDIAN NATIONAL IS DEFINED UNDER SUB-SECTION 5(2) (B) AS

(A) "IN THE CASE OF A PUBLIC COMPANY AS DEFINED IN THE COMPANIES ACT, 1956, ONLY IF A MAJORITY OF THE DIRECTORS OF THE COMPANY ARE CITIZENS OF INDIA AND NOT LESS THAN FIFTY ONE PERCENT, OF THE SHARE CAPITAL, THEREOF IS HELD BY PERSONS WHO ARE EITHER CITIZENS OF INDIA OR COMPANIES AS DEFINED IN THE SAID ACT";

(B) IN THE CASE OF A PRIVATE COMPANY AS DEFINED IN THE SAID ACT, ONLY IF ALL THE MEMBERS OF THE COMPANY ARE CITIZENS OF INDIA" (C) "IN THE CASE OF A FIRM OR OTHER ASSOCIATION OF INDIVIDUALS. ONLY IF ALL THE PARTNERS OF THE FIRM OR MEMBERS OF THE ASSOCIATION ARE CITIZENS OF INDIA"; AND (D) "IN THE CASE OF INDIVIDUAL, ONLY IF HE IS A CITIZEN OF INDIA".

2. FOLLOWING THE NATIONALIZATION OF COAL MINING IN 1972 (COKE) AND IN 1973 (NON-COKE), COAL MINING IS EXCLUSIVELY IN THE PUBLIC  
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PAGE 02 NEW DE 10052 081315Z

SECTOR WITH THE EXCEPTION OF A FEW CAPTIVE MINES BELONGING TO THE

PRIVATE SECTOR TATA IRON AND STEEL CO. LTD. AND THE GOI MANAGED INDIAN IRON AND STEEL CO. LTD.

3. ACCORDING TO THE PETROLEUM AND NATURAL GAS RULES, 1959, MINING OF OIL AND GAS IN INDIA CAN BE CARRIED OUT BY INDIANS AND FOREIGNERS UPON THE APPROVAL OF THE GOI, E.G. OIL INDIA LTD. (50 PERCENT GOI, 50 PERCENT BURMAH OIL LTD. OF THE UK) A JOINT SECTOR COMPANY POSSESSES MINING LEASES IN ASSAM AND A PETROLEUM EXPLORATION LICENSE IN ARUNACHAL PRADESH.

4. A COPY OF THE MINES AND MINERALS (REGULATION AND DEVELOPMENT) ACT 1957 (AS MODIFIED UP TO FEBRUARY 1, 1973) IS BEING SENT UNDER SEPARATE COVER.

5. COMMENT: A SENIOR OFFICIAL OF THE GOI DEPARTMENT OF MINES INFORMED US THAT NO INDIAN LAWS, CUSTOMS, AND/OR REGULATIONS SPECIFICALLY STIPULATE THAT US CITIZENS OR CORPORATIONS ARE NECESSARILY EXCLUDED FROM OWNING INTEREST IN MINING LEASES BY STOCK OWNERSHIP, STOCK HOLDING, OR STOCK CONTROL. HOWEVER, THE OFFICIAL STATED THAT INDIA'S POLICY IS TO RESERVE PROSPECTING AND MINING LEASES FOR INDIAN NATIONALS AND CORPORATIONS ONLY, BUT IF VIEWED IN THE NATIONAL INTEREST, THE GOI HAS THE OPTION TO APPROVE PROSPECTING AND MINING BY FOREIGNERS.SAXBE

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